

# Submission

## Administrative Law & Human Rights Section

To: Dr Jacqueline Goodall  
Legislation and Policy Officer  
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Public Health  
Department of Human Services

**Submission:**            **Review of the Health Act 1958: A new legislative framework for public health in Victoria**

A submission from:    Health Law & Health Law Exchange Committee of the Law Institute of Victoria

Date: 10 November 2004

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### List of issues for comment

	Issue	Section reference
1	Should the Act be renamed and, if so, what name would best reflect the role and purpose of the new Act?	3.1
	No Comment	
2	Are there matters that are currently dealt with by other legislation that should be included in the new Act?	3.2
	No Comment	
3	Should the new Act recognise the importance of promoting public health, and, if so, how should the new Act aim to achieve this?	3.2
	No Comment	
4	Should the new Act recognise the need to address inequalities in the health and wellbeing of disadvantaged communities and, if so, how should the Act aim to achieve this?	3.2
	No Comment	
5	What objects provisions would represent the public health objectives, values and outcomes that the new Act should be aiming to achieve?	3.3
	No Comment	
6	Should the new Act contain a provision specifying guiding principles, and, if so, what principles should be included?	3.4
	Comment: The LIV is concerned that the 'polluter pays' principle may be too wide.	
7	Should the new Act include a statement that the function of the Secretary is to implement policies and programs to achieve the objects of the Act?	4.1
	No Comment	

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- 8 Should the new Act include a power for the Secretary to conduct inquiries into matters of public health concern and, if so, who should have the power to direct that an inquiry be conducted? 4.1

Comment: It appears that section 384 of the Health Act already adequately deals with this matter by giving the Secretary a broad power to conduct inquiries into matters of public health concern. The LIV is not clear, therefore, what is actually being proposed in relation to this matter. However, if this is purely the re-enactment of section 384 then it is supported by the LIV.

- 9 Should the new Act retain the functions for municipal councils as set out in the current Act? 4.2

No Comment

- 10 Should the new Act recognise municipal councils' role in: 4.2
- Planning, advocating and providing organised public health programs?
  - Developing and implementing strategies to promote and improve public health and promote community health and wellbeing?

No Comment

- 11 Should the concept of partnership between state and local government, and between government and non-government, be addressed in the new Act? 4.3

No Comment

- 12 Should the new Act place greater emphasis on implementing the MPHP and achieving its outcomes, rather than just developing a document, and if so, how could this be achieved? 4.4

No Comment

- 13 Should the new Act require that municipal councils set out how they intend to fulfil their statutory functions in their MPHPs? 4.4

No Comment

- 14 Should the new Act retain the requirement to prepare MPHPs at set intervals and to review MPHPs annually in consultation with the Department of Human Services? 4.4

No Comment

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- 15 What should be the local government reporting requirements, if any, under the new Act? For example, should the new Act retain the requirement to report annually, and at other times as directed by the Secretary? Should there be a requirement to submit MPHPs at set intervals? If so, what would be the expected value of such reporting requirements? 4.4
- No Comment
- 16 Should the new Act link the requirement to prepare a MPHP to other planning processes within local government, such as the Council Plan? For example, should the requirement be to prepare MPHPs every four years? 4.4
- No Comment
- 17 Should the new Act remove the requirement that every council appoint a MOH, and instead rely on non-legislative mechanisms for ensuring municipal councils have access to medical expertise? 4.5
- No Comment
- 18 Should an EHO who is appointed by a council automatically be an authorised officer for the purposes of the Act? 4.6
- No Comment
- 19 Should the new Act require specific qualifications and/or experience for appointment as an EHO? 4.6
- No Comment
- 20 Should the new Act require that authorised officers have qualifications and/or experience prescribed by the Secretary? 4.7
- No Comment
- 21 Alternatively, should the Act provide that councils may only authorise persons appropriately competent? 4.7
- No Comment
- 22 Are the current powers of the Secretary under the Health Act with respect to the collection of health information adequate to ensure access to comprehensive and reliable data necessary to monitor and assist in the protection of public health? 5.1
- No Comment

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- 23 Should the new Act make more explicit the forms that such collection of comprehensive data may take? For example, should the new Act provide for the Secretary to establish registers, databases and other collections of public health information and to state some of the uses of that information? 5.1

Comment: The LIV considers that the new Health Act should give the Secretary power to establish different forms of data collection.

- 24 Should the provisions regarding consultative councils be consolidated in the new Act to provide: 5.3
- General provisions regarding establishment and functions of all consultative councils?
  - Standard provisions regarding the establishment of sub-committees?
  - A power to make recommendations in relation to investigations or inquiries?
  - An obligation to produce an annual report?

Comment: The LIV considers that the provisions should be consolidated, with standard provisions, a power to make recommendations and to provide an annual report of consultative council's functions and powers to investigate. The LIV also considers there should be an obligation to produce an annual report available to the public.

- 25 What sort of information might each of the consultative councils need to ensure that they can carry out their functions effectively? 5.3

Comment: The new Health Act should provide flexibility to require additional information to enable consultative councils to respond to emerging public health issues in a timely manner.

- 26 Should the new Act contain more specific provisions requiring: 5.3
- Reporting to consultative councils on specified incidents?
  - Regular provision of specified information relevant to the statutory functions of consultative councils?
  - Preparation, by medical practitioners, of a report for the Council in relation to a matter that it is investigating?

No Comment

- 27 Should Victoria continue to rely on a legislative requirement for HIA in EIA legislation? 6.2

Comment: The LIV agrees that Victoria should continue to rely on a legislative requirement for HIA in EIA legislation, however, it has some concerns about the effectiveness of the EIA process, which needs to be addressed.

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- 28      Alternatively, should a separate requirement for HIA be introduced in the new Act and, if so, in what circumstances should HIA be conducted and what should be the threshold for triggering it?      6.2
- Comment: The LIV does not support the introduction of HIA requirements.
- 29      Should the new Act support and enhance the practice of risk management?      7.1
- Comment: Whilst the proposal herein seems at first blush to be reasonable, when it is coupled with the proposed audit and compliance regime in section 7.5, this could become a resource, compliance and legal nightmare for health organisations, which are already subject to other regulatory audit and compliance regimes. The LIV considers that the new Act should support risk management but not prescribe it.
- 30      Should the new Act include a general statutory duty of care?      7.2
- Comment: The LIV strongly opposes the adoption of a statutory duty to not undertake any activity that may result in harm to the health of another person. It would be too wide, uncertain and consequently too difficult to comply with. The common law duty of care (and other statutory duties under OH&S, environmental legislation, etc.) is effective enough to cover public health issues.
- 31      If so, what should be the scope of the duty?      7.2
- See above
- 32      If adopted, should the duty be positive or only negative?      7.2
- See above
- 33      What should follow from being in breach of the duty: criminal and/or civil liability or should the consequences of breach be limited to administrative powers?      7.2
- See above
- 34      Should failure to comply with the duty be the basis on which costs are recovered?      7.2
- See above
- 35      Should compliance with the duty provide a defence against some offences under the Act?      7.2
- See above

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- 36 How might the duty of care work in practice? 7.2  
See above
- 37 Should a general statutory duty of care, if adopted, replace the separate nuisance provisions and, if so, should municipal councils still retain responsibility for dealing with public health risks similar to nuisances in their municipalities? 7.3  
See above
- 38 If separate nuisance provisions are retained, should nuisance be defined so as to focus on public health risks and, if so, does removing the term 'annoying' from the definition of 'offensive' achieve this? 7.3  
No Comment
- 39 If the obligation on municipal councils to abate nuisance in their municipality is retained, should the abatement provisions be removed and municipal councils instead rely on general enforcement provisions under the new Act? 7.3  
No Comment
- 40 Should best practice standards continue to have a role in the regulation of public health risks? 7.4  
Comment: Yes.
- 41 Should RMPs have a role in the regulation of public health risks under the new Act? 7.5  
Comment: Please refer to earlier comments regarding Issue 29 above. The introduction of Risk Management Plans, the criteria of which would be set by the Act, would be a substantial burden on most health organisations, which are already subject to other regulatory audit and compliance regimes (eg including Therapeutic Goods Administration and the Code of Good Manufacturing Practice).
- 42 Who should be required to prepare RMPs: 7.5
- persons undertaking a registrable or licensable activity by way of a condition of registration/licence?
  - persons required to do so by an improvement notice?
- See above

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- 43 What criteria should be used in deciding which activities should be subject to the requirement of registration or licensing? 7.6
- Comment: The LIV considers that the basis for registration or licensing should be the degree of risk to the public posed by the activity.
- 44 What regulatory parameters for registration/licensing would provide a more up-to-date, flexible, graduated and responsive approach to the level of public health risk? 7.6
- No Comment
- 45 Are there any other public health risk activities that should be regulated under the new Act through the system of registration or licensing and, if so, what specific requirements should be imposed on those activities? 7.6
- No Comment
- 46 Should there be a positive obligation on persons conducting activities subject to registration/licensing to notify authorities in event of certain types of incidents occurring? 7.6
- Comment: Yes.
- 47 Should there be an obligation placed on proprietors of non-registered premises (for example, swimming pools and brothels) to notify authorities where there has been an incident that might present a risk to public health? 7.6
- Comment: Yes.
- 48 Should all enforcement powers be brought together in one part of the Act? 7.7
- Comment: Yes.
- 49 Should the enforcement provisions of the Health (Infectious Diseases) Regulations 2001 be broadened to cover other public health threats not involving infectious diseases? 7.7
- Comment: The LIV is concerned at the potential for overlap with other legislation and administering agencies.
- 50 Are the enforcement powers in the Health Act appropriate to allow authorised officers and EHOs to carry out their duties? 7.7
- Comment: The LIV considers that there must be legal safeguards (eg review mechanisms)

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- 51 In addition to the power to take samples and make copies of seized documents, are there any other additional powers that should be included in the new Act? 7.7
- No comment
- 52 Should the power to search for and seize goods without a warrant be widened to allow the Secretary to search for and seize things other than goods, such as records, biological agents or other items? 7.7
- See comments at Issue 50 above.
- 53 Should the new Act contain a procedure for the issuing of improvement and prohibition notices by authorised officers? 7.7
- Comment: The LIV reiterates its opposition to the creation of a statutory duty, however, the LIV would support improvement or prohibition notices in place of an abatement notice and a procedure to ensure a consistent approach.
- 54 Should notices cover: 7.7
- nuisance?
  - licensable or registrable public health risk activities?
  - where the activity may otherwise contravene the Act?
- See above
- 55 Should the new Act establish general criteria for issuing notices? 7.7
- See above
- 56 Should the new Act set out an inclusive list of the types of work a person subject to an improvement notice could be required to perform? 7.7
- Comment: The LIV supports a list of inclusions but is concerned with the potential for overlap with other statutory schemes (eg asbestos removal).
- 57 What method of review should apply to improvement and prohibition notices? 7.7
- Comment: There should be a mechanism for review by the Victorian Civil and Administrative Tribunal.

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- 58 Should emergency powers be general for 'public health emergencies' or be specific to infectious diseases? 7.8

Comment: The LIV considers the powers should be specific to infectious diseases only. Other public health emergencies are already covered by the *Emergency Management Act* and *Terrorism (Community Protection) Act*.

- 59 Should the proclamation of an emergency be extended to four weeks, with renewal periods not exceeding two weeks, to a maximum of six months? 7.8

No comment

- 60 Should there be a fast-track mechanism for notifying a disease associated with a public health emergency? 7.8

Comment: The LIV supports a fast-track mechanism.

- 61 Should the Secretary be given powers in a public health emergency to compel examination, testing, vaccination, treatment (including preventative treatment), isolation and quarantine? 7.8

Comment: The LIV supports the provision of these powers provided there are sufficient legal safeguards in line with international standards on public health and human rights such as the Siracusa Principles:

1. The restriction is provided for and carried out in accordance with the law;
2. The restriction is in the interest of a legitimate objective of general interest;
3. The restriction is strictly necessary in a democratic society to achieve the objective;
4. There are no less intrusive and restrictive means available to reach the same goal; and
5. The restriction is not applied arbitrarily, ie in an unreasonable or otherwise discriminatory manner.

- 62 Should the Secretary be given a 'catch all' power in a public health emergency such as 'any other order deemed necessary'? 7.8

Comment: See above

- 63 Should compliance with demands from the Secretary during an emergency or outbreak of an infectious disease be specifically exempted from confidentiality? 7.8

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Comment: The LIV supports this extended power if it means that the person providing the information is protected. However the LIV supports the individual's right to privacy and the exemption should not be wider than protecting the informant.

- 64 Should the Secretary's power to act when local government is in default be limited in any way? 7.8

No comment

- 65 Should the new Act include a provision for cost recovery where a person: 7.9
- has been convicted of an offence?
  - has contravened the Act, but there has been no conviction?
  - has caused a risk to public health?

Comment: If there is to be cost recovery, it should be limited to where there is a conviction.

- 66 Should the new Act include a new offence of 'risk to health'? 7.10

Comment: The LIV opposes the creation of such a new offence.

The LIV opposes the creation of a new statutory duty not to undertake activity that may result in harm to the health of another person unless all reasonable and practicable measures to prevent the possibility of harm have been taken.

The LIV believes that this formulation is too wide and uncertain. Many things may have an adverse impact on health and it would be preferable to target such harmful activities directly rather than through the creation of a general duty.

- 67 If so, what should amount to a 'risk to health'? 7.10

See above

- 68 If adopted, what should be the defences, if any, to the offence of 'risk to health'? 7.10

See above

- 69 What should be the scope of the offence? 7.10

See above

- 70 Should the 'risk to health' offence subsume the offence for knowingly and recklessly infecting another person with an infectious disease? 7.10

See above

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- 71 Should the offence for knowingly or recklessly infecting another person with an infectious disease not be re-enacted due to the existence of the knowing and reckless offences in the *Crimes Act 1958* (that is, sections 22 and 23)? 7.10
- Comment: The LIV believes that the offence should remain in the *Crimes Act* and not be re-enacted in the *Health Act*.
- 72 Should the new Act introduce PERIN for suitable offences? 7.11
- No comment
- 73 Should public health offences attract similar penalties to those attracted by offences under environment protection legislation? 7.12
- No comment
- 74 Should the new Act allow for greater penalties where the offender is a body corporate? 7.12
- No comment
- 75 Should the new Act include a statutory defence of due diligence? 7.13
- Comment: The LIV considers that this issues needs further exploration.
- 76 What method of review should apply to administrative decisions made under the Act? 7.15
- Comment: Review by the Victorian Civil and Administrative Tribunal.
- 77 Do the current provisions appropriately address the public health risk associated with hairdressing, beauty therapy and skin penetration? 8.1
- Comment: Yes.
- 78 Should the brothels provisions be transferred to the Prostitution Control Regulations 1995, and Department of Human Services officers exercise their inspectorial powers in relation to infection control issues under the *Prostitution Control Act 1994*? 8.1
- Comment: Yes.
- 79 Do the current provisions appropriately address the public health risk associated with prescribed accommodation (for example, hotels, motels, hostels and holiday camps)? 8.2
- Comment: Yes.

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- 80 Should an additional guiding principle for provisions in relation to the management and control of infectious diseases be that, wherever practicable, the least coercive power should be used first? 8.3

Comment: Yes. See comments at Issue 61 above in relation to Siracusa Principles.

- 81 Should the new Act clearly set out the action that may be taken when contact tracing is authorised and the protections provided to individuals that may be required to provide personal information under these provisions? 8.3

Comment: Yes.

- 82 Should the Secretary to the Department of Human Services have the power to authorise an autopsy where they believe there is a risk to public health and the Coroner does not have jurisdiction over the body? 8.3

Comment: The LIV cannot imagine a situation where the coroner would not have jurisdiction, but does not oppose such a provision.

- 83 Should the new Act continue to outline the procedures for non-consensual testing orders where consent for testing has been refused? 8.4

Comment: See comments in covering letter at point 3.

- 84 Should the new Act introduce a system for the authorisation of non-consensual testing where consent cannot be given to testing? 8.4

Comment: See comments in covering letter at point 3.

- 85 Should the provisions in the new Act be extended to beyond the care giver or custodian situation and, if so, to what situations? 8.4

No comment

- 86 Should public health orders under the new Act apply to any infectious disease or condition where there is a serious risk to public health? 8.5

No comment

- 87 Should the new Act provide a power for involuntary testing with reasonable use of force? If so, should it be exercised by 'an authorised officer', a delegate of the Secretary and/or the police? 8.5

Comment: consistent with the Siracusa Principles (see above) and by the police.

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- 88 Should the Act contain a list of the types of restrictions that may be imposed by an order of the Secretary? 8.5
- Comment: The LIV submits that this is consistent with the Siracusa Principles (see Issue 61 above) and restrictions identified in the Act.
- 89 Should the new Act introduce a power to order that a person undergo treatment where treatment is refused? If so, what limits should be placed on the use of the power? 8.5
- Comment: See above
- 90 Should there be time limits imposed on orders and, if so, what time limits should apply? 8.5
- Comment: Yes.
- 91 Should any or all public health orders require court/tribunal confirmation? 8.5
- Comment: The LIV considers that public health orders should require review should the applicant wish.
- 92 Should there be a power for the police to apprehend a person who fails to comply with a public health order, rather than merely the ability to provide 'assistance' to the medical officer? If so, should there be a requirement to obtain a warrant to apprehend the person? 8.5
- Comment: The LIV considers that the police should have the power and that a warrant should be required.
- 93 Should the new Act continue to provide that it is an offence for a person to fail to comply with an order? 8.5
- Comment: Yes.
- 94 What appeal and external review processes should be made available under the new Act? 8.5
- Comment: The LIV submits that there should be an appellate process that enables a prompt review.
- 95 Should the new Act provide for introducing new notification requirements by an Order of the Governor in Council where it is necessary to respond quickly to new and emerging diseases? 8.6
- Comment: Yes.

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- 96 Should the new Act require that hospitals have processes in place to ensure that notification requirements under the Act are met? 8.6
- Comment: This does not need to be included in the new Act.
- 97 Should the term 'notifiable disease' be replaced with the term 'notifiable condition'? 8.6
- No comment
- 98 Would alternative non-regulatory mechanisms (for example, best practice guidelines) be effective in ensuring pre-and post-test information and counselling for infectious diseases (other than HIV) is provided by appropriately qualified health care professionals? 8.7
- No comment
- 99 Should the new Act rely on the privacy framework for all health records, rather than include specific privacy provisions? 8.7
- Comment: There is some support for the view that the general privacy framework should apply but there are differing views.
- 100 Should the new Act retain the provision specifying that the court may be closed when evidence is presented concerning any matter related to HIV? 8.7
- Comment: At this stage, yes.
- 101 Should the new Act provide for a court to be closed when evidence is presented concerning other diseases? 8.7
- Comment: See above.
- 102 Should the Act include a regulation-making power to ensure participation in current quality assurance programs and supply of data for epidemiological analyses by HIV testing laboratories? 8.7
- No comment
- 103 Should the new Act state the role of municipal councils in relation to immunisation as 'coordinating and providing immunisation services to children living or being educated within the municipal district'? 8.8

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Comment: The proposed minor amendment to the statement of the role of municipal councils in the Act to 'coordinating and providing immunisation services to children living or being educated within the municipal district' is supported as it clarifies Victorian local councils' pivotal role as immunisation providers.

- 104 Should provisions regarding recording the immunisation status of children at children's services be retained in the Children's Services Regulations 1998 (rather than included in the new Act)? 8.8

Comment: It is the LIV's view that provisions regarding recording the immunisation status of children at children's services are best placed in the *Children's Services Regulations 1998* and should be retained there rather than included in the new Act. The existing separate legislative and regulatory framework for this area is desirable.

- 105 Should the new Act require school principals of primary schools to make reasonable efforts to seek an ISC in respect of every child enrolled in the school, and an immunisation update on re-enrolment? 8.8

Comment: The Act currently places the obligation on parents and guardians to provide an immunisation status certificate (*ISC*) to the person in charge of each primary school before their child first attends that school and applies a penalty provision to them in the event of non-compliance with the obligation. As a consequence, it seems unnecessary that the new Act require school principals of primary schools to make reasonable efforts to seek an ISC in respect of every child enrolled in the school in addition to the current requirement.

Similarly, as it is the responsibility of parents and guardians to ensure that the ISC is transferred from a child's former school to their new school should the child change schools, it seems unnecessary for the new Act to require that principals of primary schools make reasonable efforts to seek an immunisation update on re-enrolment.

- 106 Should the new Act introduce an obligation on parents to supply evidence of immunisation on enrolment of their child into secondary school and an obligation on school principals to make reasonable efforts to seek immunisation records in respect of every child enrolled in the school? 8.8

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Comment: Whilst acknowledging the importance of immunisation of adolescents, the new Act should not introduce an obligation on parents to supply evidence of immunisation regarding their child on enrolment into secondary school, or an obligation on school principals to make reasonable efforts to seek immunisation records in respect of every child enrolled in the school.

Again these additional compliance obligations appear unnecessary. Local councils visit each secondary school to administer vaccines to Year 7 and Year 10 students through the school based immunisation programs, free under the National Immunisation Program (and in accordance with the Australian Standard Vaccination Schedule). (General Practitioners have access to the vaccines for those students who did not receive them through the school programs). Furthermore, details of vaccines administered to children and adolescents aged between 7 and 19 years are recorded by local councils and General Practitioners on a computerised database (or by other means) and reported to the DHS Immunisation Program.

- 107      Should the new Act introduce an obligation on tertiary students to supply evidence of immunisation on enrolment and an obligation on tertiary facilities to make reasonable efforts to seek immunisation records in respect of every student enrolled in the facility? If so, for which diseases should immunisation records be required?      8.8

Comment: The Discussion Paper's comment on the exposure of young adults to measles predominantly through tertiary facilities is noted. However, the proposal to introduce an obligation on tertiary students to supply evidence of immunisation on enrolment, and an obligation on tertiary facilities to make reasonable efforts to seek immunisation records in respect of every student enrolled in the facility is unnecessary and inappropriate.

Arguably, the LIV suggests that a better approach to prevent outbreaks of vaccine preventable diseases amongst young adults would be strengthening strategies aimed at encouraging immunisation rates, such as, providing flexible immunisation services.

- 108      Should the new Act provide for different forms of evidence of immunisation? If so, what should they be?      8.8

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Comment: Section 144(4) of the Act currently provides for different forms of evidence of immunisation and should be retained in the new Act. Nevertheless, this provision should be expanded to include an additional form of evidence as contained in the Discussion Paper that 'the child has recovered from a specified vaccine preventable disease, has developed a natural immunity and does not require immunisation'. As noted in the Discussion Paper, this would require laboratory confirmation of infection and natural immunity.

- 109 Should the new Act introduce a penalty for failure on behalf of a parent or guardian to produce immunisation records on secondary school entry? 8.8

Comment: In light of the earlier comments in relation to Issue 106, the new Act should not introduce a penalty for a parent or guardian's failure to provide immunisation records on secondary school entry.

- 110 Should the new Act require the principal teacher or person in charge of the school to take reasonable steps to ensure that immunisation records are maintained, and to allow inter-school transfer of ISCs? 8.8

Comment: Regulation 8(2) of the *Health (Immunisation) Regulations 1999* requires the person in charge of the primary school to keep a record of the information in each immunisation status certificate for the period during which the child attends the school. This provision should be included in the new Act. Likewise, Regulation 9 providing for access to ICS's to an authorised officer should also be included in the new Act. Nevertheless, the extension of these provisions to cover immunisation records in secondary schools is not supported. (Please see earlier comments regarding Issue 106).

- 111 Should the new Act facilitate consistency with the NHMRC schedule for immunisation? 8.8

Comment: The new Act should facilitate consistency with the NHMRC schedule for immunisation as the NHMRC recommends the Australian Standard Vaccination Schedule (ASVS) which incorporates all vaccines recommended as 'best practice'. As a consequence, the LIV submits that the list of prescribed infectious diseases, which the ISC must cover, (as currently set out in the *Health (Immunisation) Regulations 1999*) should be broadened in the new Act to incorporate the following vaccinations as recommended by the NHMRC: hepatitis B, chicken pox, pneumococcal and meningococcal.

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However, whilst hepatitis B and meningococcal vaccines are free under the National Immunisation Program, chicken pox is not and the funding for pneumococcal is limited to certain children. Subsequently, cost-effectiveness, necessity and funding arguments, together with the certainty of future NHMRC schedule changes, undermine the proposal that the new Act provide that immunisations required for school entry certificates be in accordance with current NHMRC guidelines and other prescribed vaccine preventable diseases.

- 112 Should school principals and persons in charge of children's services be required to seek advice from the Department of Human Services before excluding children during an actual or suspected outbreak of an infectious disease? 8.9
- Comment: Yes.
- 113 Should there be a power in the new Act for the Secretary to waive or alter the prescribed periods in individual cases? 8.9
- Comment: Yes.
- 114 Should the requirement for a parent to inform the principal or a person in charge of a school or children's services centre be limited to where their child has a vaccine preventable or excludable disease? 8.9
- No comment
- 115 Should the new Act facilitate consistency with the NHMRC *Guidelines on the Recommended Minimum Periods of Exclusion from School, Preschool and Child Care Centres of Infectious Disease Cases and Contacts*? 8.9
- Comment: See above
- 116 Should provisions dealing with offensive waterways not be included in the new Act? 9.1
- No comment
- 117 Should public health risks related to rats, mice, vermin, pests or other animals suspected of having a disease capable of transmission to humans be dealt with by the issue of an improvement notice? 9.1
- No comment
- 118 Should Parts 5A and 5B of the *Building Act 1993* be transferred to the new public health Act?
- No comment

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- 119 Are there other amendments that should be made to provisions currently in Parts 5A and 5B of the Building Act that would improve the effectiveness of the legislative scheme?  
No comment
- 120 Should the new Act re-enact provisions relating to meat supervision? 9.3  
No comment
- 121 Should the offence under the *Food Act 1984* in relation to the sale of 'unsafe food' be broadened to include food that cannot be sold for human consumption under section 34(1) of the *Meat Industry Act 1993*? 9.3  
No comment
- 122 Who should be required to hold a licence to use pesticides under the new Act? 9.4  
No comment
- 123 Does the new Act need to deal with the use of pesticides not associated with a commercial enterprise? If so, what non-commercial activities should be regulated and how should these be regulated? 9.4  
No comment
- 124 Are there any areas of overlap or duplication between the regulation of the use of pesticides under the Health Act and the *Agricultural and Veterinary Chemicals (Control of Use) Act 1992*? 9.4  
No comment